Justice for People and Planet

Ending the age of corporate capture, collusion and impunity

GREENPEACE
Hidden Consequences: The costs of industrial water pollution on people, planet and profit

Justice for People and Planet

Greenpeace International

Executive Summary

This report demonstrates the need for urgent action to establish justice for people and planet and to end corporate capture, collusion and impunity. If governments adopt the Principles for Corporate Accountability presented in this report as binding rules, the result will be a greener, more peaceful and more just planet for us all.

The 10 Principles for Corporate Accountability are:

1. People and the environment, not corporations, must be at the heart of governance and public life.
2. Public participation should be inherent to all policy making.
3. States should abandon policies that undermine environmental and human rights.
4. Corporations should be subject to binding rules both where they are based and where they operate.
5. States should require due diligence reporting and cradle to grave responsibility for corporate products and services.
6. States should promote a race to the top by prohibiting corporations from carrying out activities abroad which are prohibited in their home state for reasons of risks to environmental or human rights.
7. States should create policies that provide transparency in all corporate and government activities that impact environmental and human rights, including in trade, tax, finance and investment regimes.
8. Corporations and those individuals who direct them should be liable for environmental and human rights violations committed domestically or abroad by companies under their control.
9. People affected by environmental and human rights violations should be guaranteed their right to effective access to remedy, including in company home states where necessary.
10. States must actually enforce the regulatory and policy frameworks they create.

These are not radical changes to our legal and political system. They are long overdue preconditions for people and the planet to thrive peacefully for generations to come. This report highlights the urgency of the systemic problems we are facing and shows how simple reforms could make a big difference on the global scale.

Through 20 case studies of corporate capture, collusion and impunity this report shows how corporate power, in the absence of these principles, has been used to repeatedly abuse and violate human and environmental rights. The cases expose corporate wrongdoing relating to deforestation, water and air pollution, plastic pollution, waste dumping, chemical spills, nuclear disaster, violations of Indigenous rights, civic and legal repression of environmental and human rights defenders, tax avoidance, corruption, climate denial, and fraudulent manipulation of the public debate. The companies highlighted are ACS Group (Grupo Cobra), the Carbon Majors (47 companies), DowDuPont, Energy Transfer Partners, Exxon, Gabriel Resources, Glencore, Grupo Bimbo, Halcyon Agri (Sudcam), ICIG (Miteni), Keskinoğlu, Monsanto, Nestlé, Novartis (Sandoz), Resolute Forest Products, Rosatom, Schörghuber Group (Ventisqueros), Total, Trafigura, and VW.

Governments must take action to protect the rights and interests of people and planet, by ending their collusion with, and protection of, corporate interests. Corporate environmental and human rights violations are not an inevitable aspect of our political economy. The governance gaps created by economic globalisation are not a natural phenomenon but rather a result of the political choices of policy makers. This means that effective state action could end corporate capture and close the governance gap. The cases presented in this report show that corporate impunity for environmental destruction and human rights violations is a result of the current economic and legal system. State failure to protect human rights and the environment is caused by corporate capture of decision makers and state institutions, leading to the consequent refusal of politicians to implement binding frameworks and hold corporations to account. The clear failure of voluntary codes and corporate self-regulation to safeguard human rights or the environment has led to renewed public demand for binding rules.

In Chapter 2 we show how states have, willingly and unwillingly, facilitated the development of corporate power. The reason for these misguided policy choices is not a lack of information but rather state capture by corporate interests. Corporate law, tax rules and trade and investment frameworks provide extensive rights for businesses, clashing with human rights frameworks and planetary boundaries. This international economic framework undermines the ability of states to regulate and hold corporations to account. The clear failure of voluntary codes and corporate self-regulation to safeguard human rights or the environment has led to renewed public demand for binding rules.

In Chapter 3 we look at the barriers to justice faced by people seeking redress for the actions of corporations. Effective remedy and prosecutions of companies associated with environmental disasters, adverse health impacts, and human rights violations are rare. In charting the struggle for justice, we show how four barriers: a lack of information, a lack of binding rules, a lack of enforcement, and the challenges of extraterritorial jurisdictions, combine to create a system of corporate impunity.

The first barrier, lack of information, arises because corporate law provides corporations with more rights than individuals, allowing them to obscure ownership structures and eschew liability. The vast inequality in resources between large corporations and the people who must live with the consequences of their business activities forms a major obstacle to obtaining the needed information to ensure that procedures protecting their interests are followed. The second barrier is the lack of binding rules. These shortcomings in the national and international regulation of business conduct also mean that there is insufficient regard at boardroom level for human rights and environmental concerns when it comes to high-level corporate planning. This is a vicious circle leading to increasingly irresponsible behaviour, because there are no consequences for the directors or owners of companies. Large corporations can use the separate legal personalities of their subsidiaries and sub-contractors to avoid being held accountable in a court of law. Non-judicial mechanisms are generally only effective if the company is willing to change. The third barrier is a lack of enforcement even in cases where clear rules exist. In addition to governments frequently lacking interest in pursuing corporate malfeasance, enforcement of existing environmental standards or human rights frameworks might be undermined by trade and investment agreements, and by mechanisms such as investor-state dispute settlement (ISDS). Large corporations and state entities can also collude to repress legitimate protest, through strategic lawsuits against public participation (SLAPP suits). It may also be difficult to get a judgement enforced; because of corporate limited liability, it is almost impossible for the plaintiff to go after the shareholders for damages. The fourth barrier we identify is the ineffectiveness of extraterritorial jurisdiction. In cases with a cross-border dimension, people seeking justice may face legal and jurisdictional barriers in both the country where the violation takes place (host country) and the country where the company is headquartered (home country). Accessing justice in the country where a TNC is headquartered can be just as difficult as it is in a host state. The specification of home and host state responsibilities and extraterritorial regulation is essential to effectively prevent companies from abusing human rights in countries other than their state of incorporation. The development of laws with an extraterritorial dimension is therefore crucial to effectively prevent companies from abusing human rights in other countries.

In Chapter 4 we present the Ten Corporate Accountability principles (highlighted above) which governments must adopt to ensure justice for people and the planet. We suggest specific reforms that would give each principle life, and consider how the outcomes in our case studies would have been different had the principle been respected. People are demanding, and will continue to demand, justice in the face of ongoing corporate impunity. The growing lack of public participation in politics, in particular in decisions about investment and corporate regulation, is at the heart of this problem. A new economic model that does not incentivize the externalisation of costs, and which provides for more participatory decision-making, is no longer an ideal, but a necessity. The common demand of all these struggles and movements is this: corporations need to be regulated in the public interest. States should reflect the rights and long-term interests of the public. Under international law, states already have the obligation to prevent, mitigate and ensure remedies for human rights abuses committed by corporations. The clear failure of voluntary codes and corporate self-regulation in safeguarding human rights or the environment has led to a renewed demand to put in place binding rules. The change required is people-centred and global, and involves people reclaiming the economy for the public good, and corporations being regulated to serve broader public and long-term interests. Together we can create societies and economies that lead to a green and peaceful future, and provide prosperity within planetary boundaries.
The structure of injustice

State failures
- Corporate law
- International trade deals
- Corporate capture

Barriers to justice
- Lack of information
- Lack of binding rules
- Lack of enforcement
- Legal obstacles

Inequality

Corporate impunity

Human rights violations and Environmental Damage

Protest at Standing Rock Dakota Access Pipeline in the US. A phalanx of National Guard and police advance toward a water protector holding an eagle feather at a camp near the Standing Rock Reservation in the direct path of the Dakota Access pipeline (DAPL) where 117 people were arrested.

Greenpeace International
Justice for People and Planet
Section
Executive Summary
## 20 cases of corporate capture, collusion and impunity

<table>
<thead>
<tr>
<th>#</th>
<th>Case</th>
<th>Description</th>
<th>Headquarters</th>
<th>Place of violation</th>
<th>Relevant principles</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>ACG Group</td>
<td>Spanish infrastructure company Cobra (ACG Group) supported the construction of a hydraulic power plant, despite knowing it would impact the human rights of indigenous communities in Guatemala.</td>
<td>Spain</td>
<td>Guatemala</td>
<td>1, 2, 4, 5, 6, 8, 9, 10</td>
</tr>
<tr>
<td>2</td>
<td>Carbon Majors</td>
<td>The Philippine Commission on Human Rights is investigating 47 &quot;Carbon Majors&quot; for their contribution to climate change and resulting human rights violations.</td>
<td>multiple</td>
<td>Philippines, global</td>
<td>1, 2, 5, 8, 9</td>
</tr>
<tr>
<td>3</td>
<td>DoxiDuPont</td>
<td>Decades after the Bhola disaster which killed 20,000, impacted half a million and contaminated the local water supply, victims have been unable to secure adequate justice or remedies from chemical giant DoxiDuPont, a challenge made greater by a series of purchases and mergers.</td>
<td>USA</td>
<td>India</td>
<td>4, 5, 8, 9, 10</td>
</tr>
<tr>
<td>4</td>
<td>Energy Transfer Partners</td>
<td>In developing the controversial North Dakota Access Pipeline fossil fuel company Energy Transfer Partners ignored the rights of indigenous communities and used violent security firms and a Strategic Lawsuit against Public Participation (SLAPP) to squash dissent.</td>
<td>USA, USA</td>
<td>2, 3, 5, 8, 9</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Exxon</td>
<td>By the 1980's Exxon knew that climate change was real and caused by burning fossil fuels, but chose to mislead the public about this in order to protect its profits.</td>
<td>USA, USA</td>
<td>1, 2, 5, 9</td>
<td></td>
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<tr>
<td>6</td>
<td>Gabriel Resources</td>
<td>After Romanian-based Canadian mining company Gabriel Resources from developing an open pit gold and silver mine on environmental grounds, Gabriel Resources brought a $4.4 billion claim, bypassing domestic courts.</td>
<td>Canada</td>
<td>Romania</td>
<td>1, 2, 3, 5, 6, 7</td>
</tr>
<tr>
<td>7</td>
<td>Glencore</td>
<td>Mining giant Glencore has made aggressive use of complex corporate structures and tax havens to defraud developing nations of tax revenues, while frequently being accused of human and environmental rights violations in the course of its business.</td>
<td>Switzerland</td>
<td>Global</td>
<td>1, 2, 3, 4, 5, 6, 7, 8, 9, 10</td>
</tr>
<tr>
<td>8</td>
<td>Grupo Bimbo</td>
<td>Public pressure convinced Mexican multinational bakery products Group Bimbo to reduce pesticide use in its supply chain and adopt the higher quality standards in its home market that it faced in other countries.</td>
<td>Mexico</td>
<td>Mexico</td>
<td>1, 3, 5</td>
</tr>
<tr>
<td>9</td>
<td>Halcyon Agri (Sucrapi)</td>
<td>Sukrapi, a subsidiary of Singapore based Halcyon Agri is responsible for devastating forest clearance in Cameroon, resulting in dispossession of communities and other impacts on human rights, including those of Indigenous Baka people.</td>
<td>Singapore</td>
<td>Cameroon</td>
<td>1, 2, 3, 4, 5, 6, 7, 8, 9, 10</td>
</tr>
<tr>
<td>10</td>
<td>ICIG (Milan)</td>
<td>Italian chemical company Milan, a subsidiary of International Chemical Investors Group (ICIG) has contaminated the soil and water in an area of around 200 km², affecting more than 30,000 people, but the Italian authorities have so far been unable to provide any remedy.</td>
<td>Luxembourg</td>
<td>Italy</td>
<td>1, 2, 3, 5, 7, 8, 9, 10</td>
</tr>
<tr>
<td>11</td>
<td>Kasimentoğlu</td>
<td>Chicken producer Kasimentoğlu was able to use a SLAPP suit to deprive the residents of civil society when its production methods were criticized.</td>
<td>Turkey</td>
<td>Turkey</td>
<td>1, 2, 3</td>
</tr>
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### Corporate accountability principles

1. People and the environment, not corporations, must be at the heart of governance and public life.
2. Public participation should be inherent to all policy making.
3. States should adopt policies that undermine environmental and human rights.
4. Corporations should be subject to binding mechanisms that enable environmental and human rights complaints to be investigated.
5. States should be subject to due diligence reporting and be liable for gross violations for corporate products and services.
6. States should promote a race to the top by prohibiting corporations from carrying out activities abroad which are prohibited in their home state for reasons of human rights.
7. States should create policies that provide transparency in all corporate and government activities that impact environmental and human rights, including in trade, tax, finance and investment regimes.
8. Corporations and those individuals who direct them should be liable for environmental and human rights violations committed directly or indirectly by companies under their control.
9. People affected by environmental and human rights violations should be able to access effective remedies, including in company home states.
10. States must actually enforce the regulatory and policy frameworks they create.

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<td>12</td>
<td>Monsanto</td>
<td>US-based agrochemical firm Monsanto's efforts to promote GMOs in Mexico, including intense lobby efforts, led to violations of the rights of indigenous peoples.</td>
<td>USA</td>
<td>Mexico</td>
<td>1, 2, 5, 6, 8, 9</td>
</tr>
<tr>
<td>13</td>
<td>Nestlé</td>
<td>Swiss food and beverage company Nestlé's packaging leads to huge amounts of plastic pollution for which the company takes no responsibility.</td>
<td>Switzerland</td>
<td>Philippines</td>
<td>1, 2, 5, 6</td>
</tr>
<tr>
<td>14</td>
<td>Novartis (Sandoz)</td>
<td>By outsourcing pharmaceutical production to countries with weak anti-pollution legislation companies like Sandoz, a subsidiary of the Swiss Novartis, contribute to the emergence of bacterial 'superbugs', blamed for 700,000 deaths every year.</td>
<td>Switzerland</td>
<td>India</td>
<td>1, 2, 4, 5, 6, 8, 9</td>
</tr>
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<td>15</td>
<td>Resolute Forest Products</td>
<td>Resolute Forest Products has aggressively used Strategic Lawsuits Against Public Participation (SLAPPs) to deter critics.</td>
<td>Canada</td>
<td>Canada</td>
<td>3</td>
</tr>
<tr>
<td>16</td>
<td>Rosatom</td>
<td>Russian nuclear corporation Rosatom has been responsible for a series of nuclear accidents in its Mayak complex and victims have been unable to access either justice or remedies, partly due to the impunity of the state-owned company in Russian courts.</td>
<td>Russia</td>
<td>Russia</td>
<td>1, 2, 5, 7, 8, 9, 10</td>
</tr>
<tr>
<td>17</td>
<td>Schörghuber Group (Montañarquis)</td>
<td>Chilean seafood company Montañarquis, owned by the German Schörghuber Group, failed to conduct a proper due diligence process and became an accomplice in an environmental disaster in the south of Chile.</td>
<td>Germany</td>
<td>Chile</td>
<td>4, 5, 6, 7, 8, 9, 10</td>
</tr>
<tr>
<td>18</td>
<td>Total</td>
<td>Total proposed a major offshore drilling project without performing adequate due diligence with regards to possible environmental and human rights impacts.</td>
<td>France</td>
<td>Brazil</td>
<td>1, 2, 4, 5, 6</td>
</tr>
<tr>
<td>19</td>
<td>Trafigura</td>
<td>Oil and gas company Trafigura disposed of toxic waste in Côte d'Ivoire and caused a public health crisis, weaknesses in the legal system meant many victims were denied both justice and remedy.</td>
<td>Singapore</td>
<td>Côte d'Ivoire</td>
<td>4, 5, 6, 8, 9, 10</td>
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<td>20</td>
<td>VW</td>
<td>VW's systematic cheating of emission tests led to billions in punishments in the USA, but almost no penalty in Europe due to differences in law enforcement and opportunities for remedy under the law.</td>
<td>Germany</td>
<td>Germany</td>
<td>1, 2, 5, 7, 8, 9, 10</td>
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### Greenpeace International

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### Section One

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G20 Group Action Day in Düsseldorf

Greenpeace Group Action Day for G20 Summit along the Rhine promenade in Düsseldorf. Greenpeace presents its G20 campaign slogan “Planet Earth First” and offers the public the chance to create their own banners and signs for civil protests during the G20 summit in Hamburg beginning with the “Protestwelle” (“Protest Wave”) on July 2nd. The aim is to use people power to demand social justice, effective climate protection, fair world trade and stronger democracy worldwide of the world leaders. Planet Earth First Stencil on the ground.
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The Netherlands

Greenpeace is an independent global campaigning organisation that acts to change attitudes and behaviour, to protect and conserve the environment and to promote peace.

greenpeace.org